

**UNITED STATES DISTRICT COURT
DISTRICT COURT OF MASSACHUSETTS**

**B. D. by his parents and next friends,)
RACHEL AND MICHAEL DOUCETTE,))
Plaintiffs,)**

vs.)

**GEORGETOWN PUBLIC)
SCHOOL DISTRICT and the)
TOWN OF GEORGETOWN,)
Defendants.)**

**COMPLAINT FOR ATTORNEY
FEES AND EXPENSES
PURSUANT TO 20 U.S.C. §1415(i)(3)(B)**

PRELIMINARY STATEMENT

1. B.D. and his parents, Rachel and Michael Doucette (hereafter 'Plaintiffs'), prevailed in a due process hearing before the Bureau of Special Education Appeals (hereafter 'BSEA'), challenging the failure of the Georgetown Public School District to provide B.D. with a Free Appropriate Public Education (hereafter 'FAPE'). Plaintiffs now bring this action seeking reasonable attorney's fees and costs pursuant to the Individuals with Disabilities Education Act (hereafter 'IDEA'), 20 U.S.C. § 1400 *et sec.*

JURISDICTION

2. Jurisdiction is vested in this Court under the Individuals with Disabilities Education Act, (IDEA), 20 U.S.C. §1415(i)(3)(A).

PARTIES

3. Rachel and Michael Doucette are the parents of B.D. The family resides in Georgetown, Massachusetts, which is in the boundaries of the Georgetown Public School District.

4. The Defendant is a public school district duly organized, established and existing under the laws of the Commonwealth of Massachusetts within the town of Georgetown, Massachusetts. At all times relevant herein, the Defendants are and were the Local Education Agency responsible for providing a Free Appropriate Public Education for B.D. pursuant to IDEA, 20 U.S.C. §1400 *et sec.*

GENERAL FACTS

5. B.D. is a four year old boy diagnosed with Chromosome 15q Duplication Syndrome. As a consequence of this extremely rare disorder (fewer than 500 people in the world carry this diagnosis), he has a number of substantial educational limitations including global developmental delay with a diagnosis of Pervasive Developmental Disability-Not Otherwise Specified, and a range of deficits found in children on the autism spectrum. His deficits include abnormal social interaction, sensory dysfunction, cognitive delays, learning disabilities, communication deficits and decreased abilities to complete activities of daily living.

6. Parents were provided with an Individualized Education Plan (hereafter 'IEP') dated March 29, 2010 - March 29, 2011. Parents disagreed with the appropriateness of the program and placement which the District subsequently proposed to provide for B.D. Parents retained the services of Attorney Pamela S. Milman to represent B.D.

7. On July 12, 2010, after multiple meetings and attempts to resolve differences between the parties, Attorney Milman requested a hearing before the BSEA on B.D.'s behalf in order to pursue FAPE pursuant to 20 U.S.C. §1415.

8. The BSEA hearing took place August 24, 25, 25 and 30, 2011.

9. Hearing Officer William Crane issued a decision on September 9, 2011 which concluded that the most recently proposed IEP was not reasonable calculated to provide B.D. with FAPE in the least restrictive environment.

FACTS RELATED TO ATTORNEY'S FEES

10. Pamela S. Milman, Esq., has almost seven (7) years experience as an attorney representing children with disabilities. She has represented parents and children in administrative hearings and court cases on issues related to IDEA and Massachusetts education law and regulations since 2004. Ms. Milman has been a licensed special educator and an Education Specialist at the Massachusetts Department of Elementary and Secondary Education has assisted parents and children and professionals since early 1990 in areas of education compliance and training.

11. Ms. Milman expended approximately 175 hours representing B.D. and his parents throughout the proceedings (see attached Exhibit 1). The amount of time expended by this attorney is both reasonable and necessary for a vigorous and capable representation of B.D. in his pursuit of a FAPE.

12. The hourly rate of \$225.00 per hour is reasonable for the services of an attorney who represents parents in special education matters on a regular basis.

13. The Plaintiffs' request for prejudgment interest is proper. "Prejudgment is an element of complete compensation." *West Virginia v. United States*, 479 US 309, 107 S.Ct. 902, 906 (1987). Interest is available as a matter of law from the time judgment is entered. 28 USC § 1961.

CAUSE OF ACTION

14. Plaintiffs hereby incorporate by reference the foregoing allegations in their Complaint and further state that Plaintiffs are a prevailing party pursuant to 20 U.S.C. § 1415(i)(3)(B) and are entitled to an award of reasonable attorney's fees and costs incurred in the administrative proceedings, plus such additional fees and costs as may be incurred to implement the Individual Education Plan ordered by the Independent Hearing Officer in the administrative hearing involving same parties and in filing and pursuing this cause of action.

15. That as a result of said hearing, BSEA #11-0291, the Independent Hearing Officer issued a decision and orders on September 9, 2010, that found that the Defendants violated the IDEA and his resulting ordered remedies changed the legal relationship between the Plaintiffs and Defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendant and pray for the following relief:

- a. an order declaring the Plaintiffs as the prevailing party;
- b. an order awarding Plaintiffs' reasonable attorney's fees and costs incurred in the administrative proceedings, plus such additional fees and costs, interests and in filing and pursuing this cause of action,
- c. an award any other such further relief that this Court deems proper and appropriate.

Respectfully submitted,

/s/ Pamela S. Milman
Pamela S. Milman, Esq.
BBO# 659573
999 Broadway, Suite #301
Saugus, Massachusetts 01906
Phone: 781-231-4332
Fax: 781-231-3273
Email: ecals@comcast.net
Attorney for Plaintiffs

DATE: April 22, 2011

CERTIFICATE OF SERVICE

I, Pamela S. Milman, Esq., hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participant on April 22, 2011.

/s/ Pamela S. Milman
Pamela S. Milman



EDUCATION CONSULTING, ADVOCACY & LEGAL SERVICES, LLC

999 Broadway, Suite 301
Stonehill Corporate Center
Saugus, MA 01906
www.educationandjuvenilelaw.com
781.231.4332

Invoice submitted to:
Mike & Rachel Doucette

June 27, 2010

Invoice # 12080

Professional Services

	<u>Hours</u>	<u>Amount</u>
6/1/2010- Case preparation	7.00	1,575.00
6/27/2010 Correspondence		
Request for Hearing Draft(s)		
Legal research		
Letter draft(s)		
Review of documents		
	<u>7.00</u>	<u>\$1,575.00</u>



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999 Broadway, Suite 301
 Stonehill Corporate Center
 Saugus, MA 01906
www.educationandjuvenilelaw.com
 781.231.4332

Invoice submitted to:
 Mike & Rachel Doucette

July 31, 2010

Invoice # 12119

Professional Services

	<u>Hours</u>	<u>Amount</u>
6/28/2010- Case preparation	18.00	4,050.00
7/31/2010 Correspondence		
Office meeting (7/9/2010)		
Hearing Preparation		
Draft(s) Request for Hearing		
BSEA Conference Call (7/19/2010)		
Resolution Session (7/22/2010)		
Discovery/Interrogatories		
Review of documents		
Draft(s) of Motions		
Legal research		
	<u>18.00</u>	<u>\$4,050.00</u>



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999 Broadway, Suite 301
 Stonehill Corporate Center
 Saugus, MA 01906
www.educationandjuvenilelaw.com
 781.231.4332

Invoice submitted to:
 Mike & Rachel Doucette

August 31, 2010

Invoice # 12162

Professional Services

	<u>Hours</u>	<u>Amount</u>
8/1/2010- Hearing preparation		
8/31/2010 Discovery	70.50	15,862.50
Interrogatories		
Review of documents		
Review of School's Discovery		
Legal Research		
Draft of Motions		
Evidence/Exhibit Binders		
Direct/Cross Questions		
In-house strategy sessions		
Closing argument preparation		
Request for Subpoenas		
Subpoenas Duces Tecum		
Motion's Hearings		
Correspondence		
Response tp District's Motions		
8/3/2010 Meeting with G. Timmel	2.25	506.25
8/19/2010 Office meeting	5.00	1,125.00
8/24/2010 BSEA Hearing	8.50	1,912.50
8/25/2010 BSEA Hearing	7.00	1,575.00
8/26/2010 BSEA Hearing	6.50	1,462.50
	<u>99.75</u>	<u>\$22,443.75</u>



EDUCATION CONSULTING, ADVOCACY & LEGAL SERVICES, LLC

999 Broadway, Suite 301
Stonehill Corporate Center
Saugus, MA 01906
www.educationandjuvenilelaw.com
781.231.4332

Invoice submitted to:
Mike & Rachel Doucette

September 30, 2010

Invoice # 12182

Professional Services

	<u>Hours</u>	<u>Amount</u>
9/1/2010- Case preparation	13.00	2,925.00
9/30/2010 Correspondence		
Review of documents		
Legal research		
Drafts of Letters		
	<u>13.00</u>	<u>\$2,925.00</u>



EDUCATION CONSULTING, ADVOCACY & LEGAL SERVICES, LLC

999 Broadway, Suite 301
Stonehill Corporate Center
Saugus, MA 01906
www.educationandjuvenilelaw.com
781.231.4332

Invoice submitted to:
Mike & Rachel Doucette

October 30, 2010

Invoice # 12216

Professional Services

		<u>Hours</u>	<u>Amount</u>
10/7/2010	Case preparation	3.25	731.25
	Legal research		
	Review of documents		
	Drafts of documents		
	Correspondence		
		<u>3.25</u>	<u>\$731.25</u>



EDUCATION CONSULTING, ADVOCACY & LEGAL SERVICES, LLC

999 Broadway, Suite 301
Stonehill Corporate Center
Saugus, MA 01906
www.educationandjuvenilelaw.com
781.231.4332

Invoice submitted to:
Mike & Rachel Doucette

November 30, 2010

Invoice # 12248

Professional Services

	<u>Hours</u>	<u>Amount</u>
11/1/2010- Case preparation	4.00	900.00
11/30/2010 Correspondence		
Legal research		
Review of documents		
	<u>4.00</u>	<u>\$900.00</u>



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999 Broadway, Suite 301
Stonehill Corporate Center
Saugus, MA 01906
www.educationandjuvenilelaw.com
781.231.4332

Invoice submitted to:
Mike & Rachel Doucette

December 31, 2010

Invoice # 12294

Professional Services

	<u>Hours</u>	<u>Amount</u>
12/1/2010- Case preparation	6.00	1,350.00
12/31/2010 Correspondence		
Review of documents		
	<u>6.00</u>	<u>\$1,350.00</u>



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999 Broadway, Suite 301
Stonehill Corporate Center
Saugus, MA 01906
www.educationandjuvenilelaw.com
781.231.4332

Invoice submitted to:
Mike & Rachel Doucette

February 28, 2011

Invoice # 12352

Professional Services

	<u>Hours</u>	<u>Amount</u>
2/1/2011- Case preparation	3.50	787.50
2/28/2011 Correspondence		
Review of IEPs		
Legal research		
	<u>3.50</u>	<u>\$787.50</u>



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999 Broadway, Suite 301
Stonehill Corporate Center
Saugus, MA 01906
www.educationandjuvenilelaw.com
781.231.4332

Invoice submitted to:
Mike & Rachel Doucette

April 22, 2011

Invoice # 12410

Professional Services

	<u>Hours</u>	<u>Amount</u>
3/1/2011- Case preparation	20.00	4,500.00
4/22/2011 Legal research		
Fees Complaint		
Demand Letter to District		
	<u>20.00</u>	<u>\$4,500.00</u>